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In Pro Se

Filed
JUL -9 2015
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

David Alan Morgensen, an individual

Plaintiff,

vs.

DOWNEY SAVINGS AND LOAN
ASSOCIATION, FA, A
CALIFORNIA CORPORATION, AN
U.S. BANK OF CALIFORNIA, AN
OREGON CORPORATION,
GREENWICH CAPITAL
FINANCIAL, INC., A DELEWARE
CORPORATION,
CENTRAL MORTGAGE
COMPANY, DBA CENTRAL
MORTGAGE SERVICING
COMPANY, and DOES 1 through 10
inclusively;

Defendants.

Case No. 5:15-cv-2000-HRL

**VERIFIED OPPOSITION TO
DEFENDANT GREENWITCH
CAPITAL FINANCIAL PRODUCTS,
INC.'S UNVERIFIED REPLY IN
SUPPORT OF MOTION TO DISMISS**

**SEVENTH AMENDMENT
TRIAL BY JURY DEMANDED**

Courtroom: 2, 5th Floor
San Jose Courthouse
Judge: The Honorable Magistrate
Judge HOWARD R. LLOYD

1. Original and now answering Plaintiff, David Alan Morgensen (Hereinafter, "Plaintiff Morgensen") IS NOT the same party as DAVID ALAN MORGENSEN as named in the subject Reply AND THEREFORE an un-named party in the original action) (A Legal distinction being made on the instant record - AGAIN).

2. Plaintiff Morgensen hereby submits this his document entitled: **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S UNVERIFIED REP LY IN SUPPORT OF MOTION TO DISMISS.**

3. The subject Opposition document fails to recognize that it was basically to Reply to a Subject Matter Jurisdictional Challenge, which this document is also to be considered as such a Subject Matter Jurisdictional Challenge to the Opposition and not to this Honorable Court. (See MEMORANDUM OF LAW below for High-court mandated procedures.

4. The administrative procedure in which a Promissory Note and Deed of Trust is or was used to foreclose on the subject private land and house is or was fraud due to the fact that the original Promissory Note turned into a security at such time that it was FOREVER made into a Stock. FAS 140 clearly states that once a Promissory Note has been turned into a security such original Promissory Note MUST BE DESTROYED. The Defendant claims that they are the holder of the original Promissory Note which constitutes an admitted criminal security fraud pursuant to the Security Exchange Commission.

BINDING AUTHORITIES

5. The well-established, long-standing, applicable and relevant authorities establishing such law and procedure can be found: California Civil Code, Section 2936; US Supreme Court case "Carpenter v Logan" at 83 U.S. 271 (1872); California Supreme Court case "Lewis v Booth" at 3 Cal2nd 345 "(1935); and California Appellate Court Case "Domarad v Fisher and Burke Inc. at 270 Cal App 2nd 543 (1969).

6. Counsel for the Opposition has failed, refused or neglected to specifically indicate or identify specifically just how the above-mentioned BINDING AUTHORITEIS are distinguishable from the instant Plaintiff Morgensen matter.

7. No foreclosing state court has any jurisdiction for this case, since the Security Exchange Commission is a federal issue. Therefore any judgment and orders in a state court would be invalid and void ab initio.

8. Counsel for the Opposition has merely indicated and attempted to prove that he has a California Bar Association Union Card and at the same time has failed, refused or neglected to prove he has an actual License to Practice Law in the State of California, a valid License issued BY the State of California.

9. Counsel for the Opposition has also failed, refused or neglected to offer any Court admissible evidence that he has a Bond as mandated by the State of California. So far, by such failure on the record he has clearly indicated that he has absolutely no lawful or legal standing to be involved in the instant case whatsoever.

10. Plaintiff Morgensen hereby respectfully Demands that his Honorable Court require the Counsel for the Opposition to submit his California state issued License to Practice Law with his OATH OF OFFICE affixed to the back, and to also submit a Certified Copy of his mandated Bond in order to prove to this Honorable Court and to Plaintiff Morgensen that he has lawful and legal standing to make any appearances in the instant case.

11. At this late date Plaintiff Morgensen has not been served with a copy of any type of NOTICE OF APPEARANCE filed into the instant record by the alleged Counsel for the Opposition.

SUBJECT MATTER JURISDICTIONAL CHALLENGE
MEMORANDUM OF LAW

“There is no discretion to ignore lack of jurisdiction.”

Joyce v. US, 474 Fed 215,

1 **“The burden of proof being upon the person asserting the jurisdiction.”**
2 Mc Nutt v. GMAC, 298 US 178, Thomas v. Gaskeil, 83 Led 111, Basso v.
3 UP, 495 F2d 906

4 **“Court must produce on the record, all jurisdictional facts related to the**
5 **jurisdiction asserted.”**
6 Lantana v. Harper, 102 F2d 118, New York v. US, 337 F Supp 150; 344 F
7 Supp 929

8 **“Jurisdiction must appear as proved on the face of the record.”**
9 Baer v. USA, 503, F2d 393

10 **“A court has a duty to see to it that its processes are not being used**
11 **improperly, for improper purposes, or fraud, etc.”**
12 Pueblo De Taos v. Archuleta, 64 F2d 807, 813.

13 **“The burden of proving all jurisdictional facts rests upon the plaintiff or**
14 **person claiming jurisdiction.”**
15 Town of Lantana v. Hooper, 102 F2d 118

16 **“In 1980, the US Supreme Court abolished mere “good faith” assertions**
17 **of jurisdiction, power and authority of municipalities, states, and the**
18 **USA and agencies and hirelings thereof.”**
19 Owen v. City of Ind., 445 US 622

20 **“Rights guaranteed in constitutions are invaded when one is not at**
21 **liberty to contract with others respecting the use of his property or**
22 **employment of his talents or the manner in which he enjoys/uses his**
23 **property.”**
24 Golding v. Schubach, 70 P2d 871

25 **“Jurisdiction once challenged cannot be assumed to exist.”**
26 Hagans v. Lavine, 415 US 533 n. 5, Monell v. NY, 436 US 633, US v. More,
27 3 Cr. 159, 172

28 **“Jurisdiction can be challenged at any time.”**

Brady v. Richardson, 18 Ind. 1 Bialac v. Harsh, 436 F2d 1185, cert. den. 93 S Ct. 558, 34 Led2d 512, Crater Lake v. Oregon, 26 F.Supp. 363, Beauty Col. V. Huse, 195 W 160, 80 P2d 403.

PRO SE PROCEDURES

12. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v. C.I.A., 953 F.2d. 25, *pro se* Documents CANNOT be dismissed without the court providing the opportunity for the *pro se* litigant to correct the Document.

13. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v. C.I.A., 953 F.2d. 25, the court MUST inform the *pro se* litigant of the Petition's deficiency.

14. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v. C.I.A., 953 F.2d. 25, the court must instruct the *pro se* litigant on the necessary information for any needed corrections.

15. Plaintiff Morgensen hereby submits that pursuant to the UNITED STATES SUPREME COURT, Re: Haines v. Kerner 404 U.S. 519 at 521 (1972), and Platsky v. C.I.A., 953 F.2d. 25, the *pro se* litigant may introduce any evidence in support of his Document.

16. Plaintiff Morgensen hereby submits that the Court errs if the court dismisses the *pro se* litigants complaint without instruction as to how the pleadings are deficient and how to correct the pleadings. See Platsky v. C.I.A., 953 F.2d. 25.

MANDATORY JUDICIAL NOTICE of LICENSE FOR ATTORNEYS

17. Comes now David Alan Morgensen, Plaintiff pro se, hereby Moves this Honorable Court to take Mandatory Judicial Notice pursuant to California Evidence

Code §451 of the following; (Please take note that I have added all highlighting to make easier viewing of the word “license”).

18. **California Business and Professions Code §6067**

“ Every person on his admission shall take an oath to support the Constitution of the United States and the Constitution of the State of California, and faithfully to discharge the duties of any attorney at law to the best of his knowledge and ability. A certificate of the oath shall be indorsed upon his license.” (emphasis added)

19. **California Business and Professions Code §6002;**

“The State Bar is a “public corporation” of which every person licensed to practice law in the state is a member (Cal. Const., art. VI, §9). Richard Sander et al., v. STATE BAR OF CALIFORNIA (2013) Cal. 4th. (Emphasis added)

20. "A bar card is NOT a license, it's a dues card and/or membership card. A bar association is that what it is, a club, an association is not license, it has a certificate through the State, the two are not the same....” Sims v. Aherns, 271 S.W. 720 (1925)

21. **California Rules of Court 9.4:**

“In addition to the language required by Business and Professions Code section 6067, the oath to be taken by every person on admission to practice law is to conclude with the following: ‘As an officer of the court, **I will strive to conduct myself at all times with dignity, courtesy and integrity.**’”

22. **California Business Professions Code §145:**

The Legislature finds and declares that:

(a) Unlicensed activity in the professions and vocations regulated by the Department of Consumer Affairs is a threat to the health, welfare, and safety of the people of the State of California.

(b) The law enforcement agencies of the state should have sufficient, effective, and responsible means available to enforce the licensing laws of the state.

(c) The criminal sanction for unlicensed activity should be swift, effective, appropriate, and create a strong incentive to obtain a license. (emphasis added)

23. **PLEASE TAKE NOTICE:** I, David Alan Morgensen am a pro se litigant and claim all my rights and waive none. I hereby invoke the powers and protections of *Haines v. Kerner* 404 U.S. 519 (1972), *Simmons v. Abruzzo*, 49 F.3d 83 (2nd Cir. 1995); *Ferran v. Town of Nassau*, 11 F.3d 21(2nd Cir. 1993); *Boag v. MacDougall*, 454 U.S. 364 (1982);

“Pro se litigants pleadings are to be construed liberally and held to less stringent standard than formal pleadings drafted by lawyers; if court can reasonably read pleadings to state valid claim on which litigant could prevail, it should do so in despite failure to cite proper legal authority, confusion of legal theories, poor syntax and sentence construction, or litigant’s unfamiliarity with pleading requirements.”

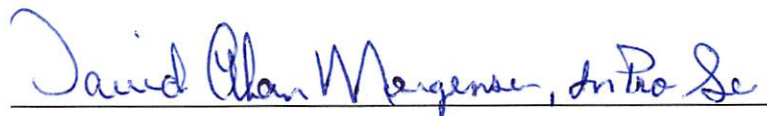
24. In order to prove they have standing to represent any named Defendants, Respectful Demand is hereby made for attorney’s FREDRICK S. LEVIN (SBN 187603), JESSICA L. POLLET (SBN 266258), and H. JOSEPH DRAPALISKI III (SBN 298791, to place into the instant record, a certified copy of their *California state issued* License to Practice Law in the State of California, with their OATH OF OFFICE and affixed to the back pursuant to the mandates of *California Evidence Code* §451, *California Business and Professions Code* §6002; *California Business and Professions Code* §6067.

25. Respectful Demand is also hereby made for attorneys FREDRICK S. LEVIN (SBN 187603), JESSICA L. POLLET (SBN 266258), and H. JOSEPH DRAPALISKI III (SBN 298791, to place into the instant record a Certified Copy of their Constitutionally mandated Surety, Security, or Performance Bond to Constitutionally

1 show who or what will be financially responsible to pay Damages for any injuries
2 sustained by Plaintiff Morgensen.

3 26. This document contains a 2,390 word count.

4 27. This document is executed by the voluntary act of my own hand in Santa Cruz
5 County, California state, and is dated this ninth day of the seventh month, in the year
6 two thousand fifteen, Anno Domini, in the two-hundred and thirty-ninth year of the
7 Independence of America.

8 
9

10 David Alan Morgensen, In Pro Se
11 Authorized Representative
12 of DAVID ALAN MORGENSEN
(Legal distinction being made on the record - AGAIN)

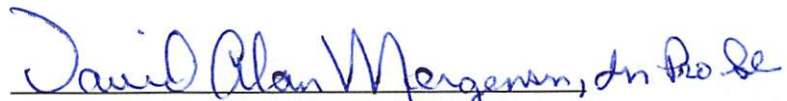
VERIFICATION

I, Plaintiff David Alan Morgensen, attest to the truth of the following:

I have read the foregoing **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S UNVERIFIED REPLY IN SUPPORT OF MOTION TO DISMISS**, and know the contents thereof.

I am a party to the above entitled action or proceeding, and certify that the matters stated therein are facts of my own knowledge.

I declare under the penalty of perjury of the Laws of California state and *these* United States of the America, that the foregoing document is correct and complete to the best of my knowledge, information and belief, and that this Verification is executed by the voluntary act of my own hand in Santa Cruz County and is dated this twenty-third day of the sixth month, in the year two thousand and fifteen, Anno Domini, in the Two-Hundred and thirty-ninth year of the Independence of the America.



David Alan Morgensen, In Pro Se
Authorized Representative
of DAVID ALAN MORGENSEN

(Legal distinction being made on the record -
AGAIN)

PROOF OF SERVICE

In the California state, Santa Clara County.

I, the undersigned, herein declare that I am over the age of eighteen years and NOT a party to the within entitled action.

I hereby declare under the penalty of perjury in Washington state and *these* United States of America, that I served the foregoing document entitled: **VERIFIED OPPOSITION TO DEFENDANT GREENWITCH CAPITAL FINANCIAL PRODUCTS, INC.'S UNVERIFIED REPLY IN SUPPORT OF MOTION TO DISMISS**, on the opposing party(ies) via Substitution of Service by Personal Service to the one in charge of the office and then by depositing in a Mail Box maintained by the United States Postal Service with postage prepaid, on this ninth day of the seventh month, in the year two thousand and fifteen, addressed as follows:

**BUCKLEYSANDLER LLP
FREDRICK S. LEVIN (SBN 187603)
JESSICA L. POLLET (SBN 266258)
H. JOSEPH DRAPALISKI III (SBN 298791)
100 Wilshire Boulevard, Suite 1000
Santa Monica, California 90401**

I declare under the penalty of perjury of the Laws of the Washington state and *these* united States of the America, that the foregoing is correct and complete to the best of my knowledge, information and belief, and that this PROOF OF SERVICE is executed by the voluntary act of my own hand in Santa Clara County and is dated this ninth day of the seventh month, in the year two thousand and fifteen, Anno Domini, in the Two-Hundred and thirty-ninth year of the Independence of the America.

Ali Haider

4722 Harwood Rd

San Jose, Ca 95124

